

Protecting Protest and Appeal Rights

It is the duty of the taxpayer to protect his right to protest or appeal any assessment or proposed assessment or to pursue any right to refund relating to any issue that may also be subject to the alternative dispute resolution process. Any agreement between a taxpayer or taxpayer representative and a representative of the Department to alter the conditions or time limits must be authorized by the Secretary of the Department of Revenue and executed in writing by both parties to be effective.

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ALTERNATIVE DISPUTE RESOLUTION "QUICK FACTS" GUIDE

Louisiana Department of
Revenue
Cynthia Bridges, Secretary

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Introduction

The Vision of the Louisiana Department of Revenue is to be recognized as a leader in customer service through a unified effort of dedicated employees and continuous improvements. This Vision recognizes the Department's responsibility for ensuring compliance with the state's tax laws, and providing taxpayers with a reasonable opportunity to disagree with a tax assessment and satisfactorily resolve the dispute.

Louisiana Revised Statute 47:1522 authorizes the Department of Revenue to use Alternative Dispute Resolution (ADR) to assist in the collection of taxes, penalties, or interest. The Department may use arbitration or mediation to resolve any issue regarding the collection of taxes. Alternative Dispute Resolution will provide a voluntary, confidential, and cooperative means of resolving tax disputes, which will reduce the costs and risks of litigation for the taxpayer and the Department. Alternative Dispute Resolution will also expedite the tax collection and refund process.

This brochure has been prepared to inform Louisiana taxpayers of their rights to enter into Alternative Dispute Resolution (LAC 61:III 301 et seq.) with the Department of Revenue. Explained in this brochure are the procedures for initiating ADR and the procedures to be followed during the ADR process.

Initiating Alternative Dispute Resolution

ADR may be initiated by the Secretary of the Department of Revenue or by the taxpayer. The total value of the case including tax, interest, and penalty must be less than \$5 million as of the date of selection in order to participate in ADR. If the Secretary selects a case for ADR, written notice will be sent to the taxpayer regarding the selection within 30 days.

If the taxpayer desires to participate in ADR, he must give written notice to the Department. The notice must be signed by the taxpayer or the taxpayer's representative and contain the following: taxpayer's name, tax identification number, address, telephone number, fax number, and e-mail address. The notice should also include the name of the taxpayer's representative, his contact information, a brief description of the nature of the dispute, the issues and the relief requested, reasons supporting the relief, and any other relevant information supporting the claim.

ADR Hearing Overview

The Department and taxpayer will select an ADR company from the registry maintained by the Department. Thereafter, the ADR company will select an ADR Neutral to preside over the matter.

Hearings may be held at the LaSalle Building in Baton Rouge or at any other place designated by the ADR Neutral with consideration given to the location and convenience of the parties and their witnesses.

The ADR Neutral will select a hearing date. Each party must notify the ADR Neutral in writing at least 10 business days before the initial ADR session of the following:

- The party's intention to present witnesses;
- Whether the party will be represented by counsel;
- Who will attend the hearing

The Department and taxpayer must submit a brief position paper that includes a statement of facts, law, and issues to be resolved. The time for submitting the position paper will be established by the ADR Neutral.

All ADR sessions are private and confidential. No one participating in the session may disclose the existence, content, or results of the session without the written consent of all parties.

Fees and Expenses

Each party will bear the fees and expenses for its own counsel, expert witnesses, travel, and preparation and presentation of its case. The fees and expenses of the ADR Neutral will be borne equally by the taxpayer and the Department in accordance with the ADR company's fee schedule, unless the parties agree otherwise. If an ADR session has been scheduled and a party fails to appear at the session, the party failing to appear will be responsible for payment of the reasonable costs and fees of the ADR Neutral, and the reasonable travel expenses incurred by the other party, unless the party has provided reasonable notice in writing to the ADR Neutral and all other parties that they will not appear. It will be presumed, subject to a contrary showing under the circumstances, that giving five business days advanced written notice is reasonable notice. If reasonable notice is not provided, the ADR Neutral shall determine if there was good cause for the failure to appear.

